



MEMORANDUM

July 15, 2015

SWPermitComments@ecy.wa.gov

Attn: Mr. Edward O'Brien and Ms. Anne Dettlebach
Municipal Permit Comments
Washington State Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

Subject: Bellevue comments - Draft Stormwater Control Transfer Program

Dear Mr. O'Brien^{Ed} and Ms. Dettlebach^{Anne}:

Thank you for this opportunity to review Ecology's May 2015 Draft Stormwater Control Transfer Program – Out of the Basin document (Publication No. 15-10-017).

This is our first look at a new, innovative, alternative program to the NPDES municipal stormwater permit requirements for new development and redevelopment stormwater control requirements. Employing a citywide watershed-based transfer program approach to stormwater controls would allow Bellevue to be strategic with resources, projects and programs, meet conflicting regulatory drivers while supporting future development and redevelopment, and achieve more immediate and measurable improvements to flow, water quality, and aquatic habitat in our streams and lakes.

To be a viable alternative for municipalities' consideration, several concerns with the proposed program that we believe constrains its application in highly urbanized areas need to be addressed. These challenges and constraints, as well as suggestions to address them, are outlined in the attached Overall Assessment comments. Following the Overall Assessment comments are General Comments organized by draft Program section.

We ask that Ecology provide opportunities for follow-up discussions with commenters on viability and high profile issues before the guidance is finalized. Issues include those program components receiving a large number of comments, alternative proposals or areas which require clarification and better understanding of the direction intended by Ecology. The discussions would focus on the comments received and the potential direction(s) Ecology is considering in its response.

For questions about Bellevue's comments or to schedule follow-up discussions, please contact Phyllis Varner, NPDES Permit Manager, at 425-452-7683 or pvarner@bellevuewa.gov.

Sincerely,

A handwritten signature in blue ink that reads "Paul A. Bucich".

Paul A. Bucich, PE
Assistant Director of Engineering
Utilities Department
City of Bellevue, WA

Attachments

Overall Assessment of Draft Alternative Stormwater Control Transfer Program's Viability

Bellevue's Perspective

The current NPDES Permit regulatory approach requires stormwater control requirements to be applied on a piecemeal, parcel by parcel new development/redevelopment basis. The proposed alternative program could allow municipalities to invest new development and redevelopment stormwater control resources strategically by prioritizing watersheds and transferring stormwater control improvement "credits" (for flow control, water quality treatment and low impact development) from lower to higher priority watersheds where they will deliver the greatest environmental benefit sooner. The concepts have great potential, however the costs to develop, additional requirements to justify coupled with a limited applicability may outweigh the benefits for a municipality, especially in already highly urbanized municipalities:

1. Very costly and requires years to implement. To implement this alternative program will require hundreds of thousands of dollars, significant staff resources, and several years to perform baseline monitoring, characterize and prioritize city's watersheds and develop an alternative program approved by Ecology. Then it will require significant expense both in capital costs as well as staff resources and a minimum of two additional years to permit and construct at least one alternative program stormwater facility. Further limiting the applicability of this transfer program is the requirement that a facility must be online before any project may rely on it to help meet its stormwater requirements (per Key Program Element #3, page 2). The alternative program also requires the municipality to take on new, potentially significant costs for on-going program administration, post-implementation water quality monitoring and annual reporting to Ecology.
2. Potentially limited application in highly urbanized municipalities. The level of redevelopment activity and timing will be significant factors in determining if an alternative program is feasible and cost-effective.
3. Limited NPDES municipal stormwater management program application and benefits. The watershed prioritization and this alternative new development/redevelopment program is an important step forward in investing stormwater management resources strategically and wisely. It would be rewarding to see this approach applied to other existing stormwater management program requirements such as TMDLs and future requirements, such as a stormwater retrofit requirement (for Phase II municipalities). At this time, however, Ecology has indicated that the vision for this alternative approach to stormwater management has limited application and benefits per Program Principles #6:
"Ecology approval of a Stormwater control Transfer Plan does not shield the Permittee from additional or more stringent requirements associated with TMDLs, S4.F.3 adaptive management plans, future stormwater requirements, or other enforceable mechanisms."
4. Lack of certainty. The alternative program is a significant investment for municipalities and there is no assurance that stormwater control requirements will be vested to provide a level of certainty in the parameters of an alternative program approach. Jurisdictions need assurances that a facility that is designed to meet current standards will be allowed to be used by development at that same standard until the facility is fully bought into to recuperate costs.

5. Unknowns (technical issues, others?) There are several technical questions that need to be addressed, such as how wetland requirement, MR#8, will be addressed by the alternative program.
6. Alternative program isn't a practical, timely alternative for small, redevelopment sites. This guidance doesn't address the unique and immediate difficulties of individual, small redevelopment sites called out in the PCHB No. 12-097c appeal's Stipulation and Agreed Order of Dismissal which requires Ecology to "continue to work with Phase II Coalition members, other permittees, and the Washington State Department of Commerce to explore options for meeting stormwater development/flow control standards on small, redevelopment sites in urban growth centers."

Bellevue's Suggestions

The alternative program's viability is a high profile issue for Bellevue. We've had limited time to brainstorm and develop suggestions that can improve use of the alternative program. We do think the alternative program could be an important tool to achieve environmental improvements sooner and, as noted in our cover letter, would welcome Ecology continuing discussions with stakeholders to help achieve this. Here are a few suggestions to consider in addressing the above viability issues.

1. Very costly and requires years to implement.

- a. Key Program Element #3, page 2, requiring a facility to be on-line before any project may rely on it to help meet its stormwater requirements.

Comment: If a municipality is required to prebuild a facility before a project may rely on it to help meet its stormwater requirements, then the municipality is constrained from charging or collecting more than the proportionate cost of the prebuilt facility. This is a deal for the developer and a loss for potential environmental lift. If however, municipalities can charge the stormwater savings to the project (from being able to transfer their stormwater requirements off-site to an unspecified location), then the municipality can leverage those dollars to provide greater environmental lift (possibly three facilities versus one facility). It's analogous to giving \$10 of groceries to a food bank versus giving a \$10 bill and having the food bank leverage the \$10 to buy \$30 of groceries through their connections with food manufacturers and vendors.

Suggestion: Ecology holds discussion on alternatives to this Program Element which allows the Program to build in certainty that stormwater requirements are met without constraining potential environmental lift and alternative program benefits.

- b. Watershed characterization and prioritization

Suggestion: Add the following conditions and clarifications to the watershed characterization and prioritization process in the guidance. The intent is to minimize costs, add certainty (for approvable outcome) and encourage consideration of this tool for municipalities who may have limited local data.

- Allow municipalities to use *existing* federal, state and local data to characterize and prioritize their basins.
- Clearly articulate the framework of what elements are non-negotiable for characterizing or prioritizing basins.

c. Monitoring

Suggestion: Allow reasonable parameters or indicators of environmental improvements or lift for the monitoring program, rather than monitoring each parameter of interest.

2. Limited NPDES municipal stormwater management program application and benefits

Comment: If Ecology doesn't intend to consider potentially expanding this watershed prioritization approach to other stormwater management requirements to achieve environmental improvements sooner without resulting in increased stormwater impacts to other receiving waters, then this will limit program's viability for many jurisdictions.

Suggestion: Consider adding clarification that Ecology will consider potentially expanding this watershed prioritization approach to other stormwater management requirements if they will achieve environmental improvements sooner without resulting in increased stormwater impacts to other receiving waters.

3. Lack of Certainty

Comment: For municipalities to garner support for this alternative program approach, there has to be some level of certainty that the standards to which the program is accountable are stable. It's important to define some level of vesting of stormwater development standards either for the basin, facilities or program for municipalities to feel comfortable with the large investment necessary to implement the program (i.e., what prevents Ecology from issuing new rules that would make an approved Transfer Plan obsolete?).

Suggestion: Ecology holds discussions with stakeholders on ways to build certainty into the alternative program.

4. Alternative program isn't a practical, timely alternative for small, redevelopment sites

Comment: Alternatives need to be developed that provide practical, timely alternatives for small redevelopment sites to meet NPDES and Growth Management Act goals and requirements. This alternative program is costly, time-consuming and doesn't provide practical, timely alternatives for small, redevelopment sites to do so.

Suggestion: As previously discussed at Building Cities in the Rain project meetings, the state departments of Ecology and Commerce will wrap up this alternative program tool and begin developing practical timely alternatives for small, redevelopment sites. The goal would be to develop these alternatives by the December 31, 2016 deadline for implementing the new stormwater development standards.

General Comments on the Draft Alternative Stormwater Control Transfer Program

Bellevue's General Comments Organized by Draft Guidance Section

I. Key Features of Programs

1. General Program Principle #1 on page 2 states that the Program's:
"Environmental goal = Full attainment of water quality standards, including protection/restoration of designated and existing uses."

This is an unattainable goal for a Program that addresses only one component of the much larger, complex stormwater issues needed to attain water quality standards. Bellevue suggests that Ecology remove this Principle or work with a variety of stakeholders and identify reasonable, attainable goals for this program.

2. General Program Principle #3 on page 2 states that "A municipality must evaluate its watersheds and establish a prioritization scheme prior to implementing a Stormwater Control Transfer Program." Consistent with our Overall Assessment comment #3, Bellevue suggests Ecology explore the use of watershed prioritization for broader application to NPDES Permit and Stormwater Management Program requirements. See additional comments under Overall Assessment.
3. Specific Guidelines for Minimum Requirements (MRs) #5, 6 and 7. The guidance doesn't address if or how wetlands and development requirements necessary to comply with MR #8 Wetland Protection will be considered or addressed under a Stormwater Control Transfer Program.

II. Watershed Prioritization

1. Bellevue suggests that Ecology add for clarity and certainty the following information or statements to this section
 - Allow municipalities to use *existing* federal, state and local data to characterize and prioritize their basins.
 - Clearly articulate the framework of what elements are non-negotiable for characterizing or prioritizing basins.
 - Reference both the Puget Sound Watershed Characterization Process and the watershed characterization and prioritization guidance developed by the Building Cities in the Rain interagency project team and state that these documents identify data and approaches for municipalities to consider when characterizing and prioritizing their watersheds;
 - The watershed characterization process has to consider many conditions and factors and that prioritization of watersheds requires clear environmental goals, depends on local knowledge and data and municipalities' thoughtful development of criteria on which to rank watersheds to reach these goals;

2. In the first paragraph of this section, the term “target goals” is used. There is no definition for this term and it’s not used elsewhere in the document. Do “target goals” mean “environmental improvements” (as used in General Program Principle #2)? Suggest defining this term or deleting it to avoid confusion.
3. A potential management categorization approach from The Puget Sound Watershed Characterization Process document is referred to on page 9 without explanation and was very confusing. If you intend to identify this approach in the guidance as an option for municipalities to consider during watershed prioritization process, then recommend adding “Figure 5 - The Management Matrix” from the Process document (attached) as an example of how the categories could be used. This figure also helps clarify the following statement in the guidance (which is very confusing without the “matrix” figure to help illustrate how these categories are defined).

“Generally, watersheds that fall into the “Protection” and “Restoration” categories are expected to rank as higher priority than watersheds in the “Conservation” or “Development” categories.”

III. Considerations for Developing Effective Monitoring

1. As noted above, Redmond’s and others water quality effectiveness monitoring studies of the Program’s environmental improvements (under the NPDES Regional Stormwater Monitoring Program) may help answer this programmatic question.
2. Allow reasonable parameters or indicators of environmental improvements or lift for the monitoring program, rather than monitoring each parameter of interest.

display Sound-wide results (such as Figures 6–8) are usefully summarized into only eight categories (Figure 5b); and if only the most broad characterization is desired, they can be further condensed into just four quadrants (Figure 5c) that define the major management strategies of restoration, protection, conservation, and development.

Figure 5b:

IMPORTANCE	HIGH	Protection 1		Restoration 1	
	MED-HIGH	Protection 2		Restoration 2	
	MEDIUM	Conservation 1		Restoration with Development	
	LOW	Conservation 2		Development	
		LOW	MEDIUM	MED-HIGH	HIGH
		DEGRADATION			

Figure 5c:

IMPORTANCE	HIGH	Protection		Restoration	
	MED-HIGH				
	MEDIUM	Conservation		Development	
	LOW				
		LOW	MEDIUM	MED-HIGH	HIGH
		DEGRADATION			

Figure 5. The Management Matrix, displaying 3 alternatives with different levels of discrimination. In all tables, the rating for importance is on the vertical axis, and rating for degradation is along the horizontal axis; the combination of these two indicates suitability of the assessment unit for various combinations of protection, restoration, conservation, or development. The categories in each of the sixteen boxes in Figure 5a express the range of outcomes generated by the combined importance and degradation submodels, and they provide an initial framework for evaluating management actions. In the following maps, the legends follow Figure 5b; for the solution templates (pp. 36–39), these categories are further condensed as shown in Figure 5c.

Combining the results of the Importance and degradation submodels can yield two (related) sets of maps. One set of maps suggests the appropriate management strategy for each *Individual* water-flow process (i.e., delivery, storage, and recharge/discharge) used in the analysis, for each AU. The second set is a single map, displaying the *Integration* of all processes into an appropriate strategy based on the combined importance and degradation results for all

